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June 28, 2024

BY ECF

The Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Barry's Cut Rate Stores Inc. v. Visa Inc.*, No. 05-MD-1720 (E.D.N.Y.) (MKB)
(JAM)

Dear Judge Brodie:

We write on behalf of all parties in the above-captioned matter, in response to your order of June 25, 2024 that the parties confer and submit proposed redactions to Your Honor's recent decision on the Equitable Relief Class Plaintiffs' ("ERCPs") motion for preliminary approval of settlement and to explain why such redactions are warranted prior to the public filing of the decision. Defendants respectfully request a handful of discrete redactions (which Plaintiffs do not oppose), as follows:

- **Pages 53 and 59:** The numbers redacted on these pages reflect information that is not in the public domain and that each defendant network believes is competitively sensitive relative to other networks (e.g., Amex). This information was redacted in the public versions of materials cited in the Court's decision as well. *See* Dkt. No. 9230, 7-Eleven Objection to ERCPs' Motion for Preliminary Approval of Settlement, at 43 ("ERCC and their experts avoid any mention or discussion of this evidence and instead offer fixed system-wide rates above [REDACTED] basis points as an appropriate resolution of this long-pending case now ready for trial."); Dkt. No. 9179-6, Declaration of Keith Leffler, at 4 (¶ 9, n 8) ("The average Visa and Mastercard interchange fee was about [REDACTED] basis points in 2023.").
- **Page 60:** The number redacted on this page is taken from an expert report and reflects information that the parties previously designated as highly confidential in the *Target* action, since the number was based on non-public and competitively sensitive information. This information was redacted in the public versions of materials cited in the Court's decision as well. *See* Dkt. No. 9230, 7-Eleven Objection to ERCPs' Motion for Preliminary Approval of Settlement, at 43 ("And it included Dr. Kohler's issuer profitability analysis, which corroborated Dr. Harris's [REDACTED]-basis-point ceiling benchmark as 'the point at which pass-through is [100%],' which according to both plaintiffs' and defendants' experts is a feature of 'a competitive market.'").



Chief Judge Margo K. Brodie
June 28, 2024
Page 2

- **Page 87:** As with the redactions on pages 53 and 59, this redaction reflects information that is not in the public domain and that each defendant network believes is competitively sensitive relative to other networks (e.g., Amex). These calculations stem from information that was redacted in the public versions of materials cited in the Court's decision as well. *See* Dkt. No. 9179-6, Declaration of Keith Leffler, at 4 (¶ 9, n 8) ("The average Visa and Mastercard interchange fee was about [REDACTED] basis points in 2023.").

The parties are filing publicly by ECF copies of the decision with the redactions identified by the parties applied, and are filing under seal the decision with those redactions highlighted.

Respectfully submitted,

/s/ Matthew A. Eisenstein
Matthew A. Eisenstein
Counsel for Visa

Enclosures

cc: All Counsel of Record by ECF